

UNSERVED HIGH-SPEED BROADBAND FUNDING PROGRAM

Program Guidelines | April 2021



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Section I – Statement of Purpose

A. Introduction

The **Unserved High-Speed Broadband Funding Program** was established pursuant to the Act of November 25, 2020 (P.L.____, No. 132), known as the Unserved High-Speed Broadband Funding Program Act, and authorizes the Commonwealth Financing Authority to award grants to nongovernmental entities, which have the technical, managerial and financial expertise to design, build and operate a high-speed broadband service infrastructure within the Commonwealth of Pennsylvania, for the purpose of deploying high-speed broadband services infrastructure in unserved areas of the Commonwealth of Pennsylvania.

B. Purpose

To facilitate the deployment of high-speed broadband service infrastructure in unserved areas of the Commonwealth. Access to high-speed broadband services in unserved areas of the Commonwealth will enhance economic development, education, health care and emergency services. The creation of the Unserved High-Speed Broadband Funding Program to construct high-speed broadband service infrastructure to serve low-density areas, rural locations, and other areas of the Commonwealth where unit costs of providing service may not be economically feasible with existing incentives, will further expand broadband access for Pennsylvania's residents through new private sector investments. The Commonwealth Financing Authority (the "Authority") shall provide grants through the Unserved High-Speed Broadband Funding Program to applicants for the construction of high-speed broadband service infrastructure. These guidelines outline eligibility requirements, as well as the procedures to apply for and receive funding under the program.

Section II – Eligibility

A. Eligible Applicants

Any nongovernmental entity with the technical, managerial, and financial expertise to design, build and operate a high-speed broadband service infrastructure within this Commonwealth.

B. Eligible Projects

An eligible project shall consist of the deployment of wired and/or fixed wireless high-speed broadband service infrastructure in unserved areas of the Commonwealth. An unserved area is defined as a designated geographic area in which households or businesses do not have access to at least 25 megabits per second downstream speeds and 3 megabits per second upstream speeds. Proposed service areas are not required to be contiguous. However, non-contiguous areas more than 10 miles apart must include an explanation of how the economic and community impact is the same for the proposed areas.

Projects that will expand broadband in areas that currently have the capability of achieving 25 megabits per second downstream and 3 megabits per second upstream speeds will not be eligible under the Unserved High-Speed Broadband Program. Projects that will be developed, owned, and/or maintained by a federal, state, or local government entity will not be eligible under the Unserved High-Speed Broadband Funding Program.

C. Eligible Project Costs

1. Funds may be used for any of the following eligible costs associated with the installation and/or acquisition of middle-mile and last-mile high-speed broadband infrastructure:
 - a. Acquisition of land, rights of way, and easements necessary to construct high-speed broadband service infrastructure and related appraisal and transaction costs.
 - b. Construction of high-speed broadband service infrastructure, including but not limited to fiberoptic cables and towers.
 - c. Purchase and installation of equipment related to the deployment of high-speed broadband service infrastructure.
 - d. Clearing and preparation of land necessary to construct high-speed broadband service infrastructure.
 - e. Permit fees.
 - f. Test of service costs.
 - g. Bond costs associated with the deployment of high-speed broadband infrastructure. Bond financing costs are not eligible costs.
 - h. Engineering, design, and inspection costs related to a construction project, which shall not exceed 10% of the grant award.
 - i. Administrative costs of the applicant to administer the grant are limited to 2% of the grant award. Administrative costs include advertising costs, legal, as well as documented staff expenses.
 - j. Project contingencies associated with the construction of the project are limited to 5% of the actual construction costs. No other contingencies shall be included as eligible project costs.
2. Ineligible costs include but are not limited to fees for securing other financing, interest on borrowed funds, refinancing of existing debt, lobbying, fines, application preparation fees, and costs incurred prior to the approval of Unserved High-Speed Broadband grant funds.

Section III – Program Requirements

A. Matching Funds

An eligible applicant must commit its own private capital to fund at least 25% of the total project cost. Funding from other federal, state or local government grants or other subsidies can be used to finance the project but will not be considered to be part of the private capital requirement.

B. Planning and Permit Requirements

All recipients of funding for construction projects where federal, state, or local planning or permit approvals are required, must state in the application that the project will secure the necessary planning and permit approvals for the project prior to beginning construction. The applicant must document in the application that the project generally complies with any applicable county or local comprehensive plans as evidenced by a letter from the appropriate local planning agency.

C. Other Requirements

1. Conflict of Interest Provision

An officer, director or employee of an applicant who is a party to, or who has a private interest in, a project shall disclose the nature and extent of the interest to the governing body of the applicant and may not vote on action of the applicant concerning the project, nor participate in the deliberations of the applicant concerning the project.

2. Nondiscrimination

No assistance shall be awarded to an applicant under this program unless the applicant certifies that the applicant shall not discriminate against any employee or against any person seeking employment by reason of race, gender, creed, color, sexual orientation, gender identity or expression, or in violation of the Pennsylvania Human Relations Act, which prohibits discrimination on the basis of race, color, religious creed, ancestry, age, sex, national origin, handicap or disability, or in violation of any applicable federal laws. All contracts for work to be paid with grant funds must contain the commonwealth's official nondiscrimination clause.

3. Project Records

The applicant must maintain full and accurate records with respect to the project and must ensure adequate control over related parties in the project. The Authority requires access to such records, as well as the ability to inspect all work, invoices, materials, and other relevant records at reasonable times and places. Upon request of the Authority, the applicant must furnish all data, reports, contracts, documents, and other information relevant to the project.

4. Certification of Expenses

The applicant shall sign a payment request form certifying that the expenses were incurred and were in accordance with the scope of work approved by the Authority. In lieu of a formal project audit and prior to final closeout of the grant agreement, the applicant shall be required to submit copies of all canceled checks verifying the expenditure of the Unserved High-Speed Broadband Funding Program proceeds. Bank statements may also be submitted if electronic payment of the expenditure occurred.

5. Proof of Notification

The applicant must provide proof that the county and host municipality, or municipalities, have been notified about the intended project.

6. Guideline Provisions

These guideline provisions may be modified or waived by the Authority unless otherwise required by law.

7. Pennsylvania Prevailing Wage Act

All, or a portion of, the construction work associated with the project may be subject to the Pennsylvania Prevailing Wage Act, as determined by the Pennsylvania Department of Labor & Industry. It is the responsibility of the Applicant to ensure that the Pennsylvania Prevailing Wage Act is followed if applicable.

8. Final Report

Successful applicants will be required to provide a final report at the end of implementing the grant project. This final report will outline the activities that took place during the project, what facilities were installed and their service capabilities, total costs for the project, a map detailing the location of infrastructure and equipment that was installed and a list of funding sources and amounts utilized to complete the project. The final report must be verified by a Professional Engineer certified in Pennsylvania. The final 10% of grant funds will be held until the final report has been submitted to the Authority.

D. Fees

The Commonwealth Financing Authority charges a \$100 non-refundable application fee for Unserved High-Speed Broadband Funding Program applications. The application fee must be paid electronically by credit or debit card or electronic check through our secure, third-party vendor. Payment of the application fee must be completed prior to the certification and submission of the Electronic Single Application. Detailed payment instructions will be provided on the Certification Tab of the Electronic Single Application once all required fields have been completed.

Section IV – Grants

1. The maximum grant amount of any Unservd High-Speed Broadband Funding Program project shall not exceed \$1 million or 75% of the total project costs, whichever is less.
2. To be eligible for reimbursement, project costs must be incurred within the time frame established by the grant agreement.

Section V – Application Procedures

A. Application Procedures

To apply for funding, the applicant must submit the electronic on-line Department of Community and Economic Development Single Application for Assistance located at www.esa.dced.state.pa.us. Required supplemental information outlined in Appendix I of these guidelines must be attached electronically to the application as directed on the Addenda tab. For technical inquiries regarding the submission of the on-line application, contact the Customer Service Center at (800) 379-7448 or (717) 787-3405. Once submitted, please email one (1) copy of the application, including the required supplemental information to ra-dcedsitedvpt@pa.gov.

Within five (5) business days following the close of the application period, all applications will be made available on the High-Speed Broadband Funding Program Page for the purpose of collecting challenges that the high-speed broadband service exists in the proposed project area.

B. Program Timeline

Application Period	June 1, 2021 – September 24, 2021
Applications Posted to Program Page	October 1, 2021
Challenge Period	October 1, 2021 – November 14, 2021
Applicant Response Period	November 15, 2021 – December 5, 2021

Section VI – Process for Challenging Applications

High-speed broadband service providers serving households and businesses within a proposed project area may challenge an application on the grounds that granting an award to the applicant will result in the deployment of high-speed broadband infrastructure in an area that is served by speeds of at least 25 megabits per second downstream and 3 megabits per second upstream.

All challenges collected are subject to public disclosure, except for the specific location of infrastructure assets. In order for feedback regarding existing service, construction, or future builds to be considered when reviewing applications, supporting evidence and documentation must be provided. Comments with insufficient evidence or documentation will not be considered. Commenters may be asked to provide additional information and/or work with DCED to validate service availability.

If a challenging provider is found to have submitted inaccurate information, all current and future comments will be disregarded in the scoring process. In order for an area to be considered served, service at or exceeding 25 megabits per second downstream and 3 megabits per second upstream must be available to all residential customers in the defined area.

The submission of a challenge will serve as acknowledgement of the challenge procedures established under these guidelines. Challenges must be emailed to ra-dcedsitedvpt@pa.gov during the challenge timeframes established in Section V of these guidelines. If challenging multiple applications, a separate challenge must be sent for each project area. Challenges must include the following:

1. The name and contact information for a representative of the challenging provider.
 - a. Name:**
 - b. Email:**
 - c. Phone Number:**
 - d. Address:**
 - e. Organization:**
 - f. Title:**
2. The name of the applicant and location of proposed service being challenged.
3. A copy of the most recently submitted FCC Form 477. Include FCC Registration Number if not provided on the FCC Form 477.
4. A notarized affidavit that the proposed project area is currently served by existing high-speed broadband, or has received federal, state and/or local grants or other subsidies for or has started a planned deployment of high-speed broadband infrastructure within the applicant's proposed project area.
5. Please attach a mapping file of existing (or planned) infrastructure or service area in one of the following formats: .shp, .shx, .dbf or .kmz. If the area contains both currently served and areas of future service, please clearly indicate which is which. If a mapping file is not available, a PDF map may be submitted but will limit the ability of the scoring team to determine overlapping areas.
6. Challengers that have received federal, state and/or local grants or other subsidies must submit copies of award letters and commitments from all applicable sources.

7. Challengers that have started a planned deployment of infrastructure must include copies of permits and planning approvals, progress to date and a timeline to service availability in the applicant's proposed project area. If construction is not complete, provide the number of additional customers that can be served by the completed project.
8. Type of last mile technology:
 - a. Fiber to the premise
 - b. DSL
 - c. Coaxial
 - d. Fixed Wireless***
 - e. Other

***If fixed wireless, please attach a propagation study and describe the criteria used to generate the study.

9. The number of current broadband customers in the proposed service area.
10. The speeds that are/will be offered to residential customers and business customers.
11. Attach any additional supporting documentation.

Applicants will be given three (3) weeks to respond to challenges from the final day of challenge submissions. The Authority will review the challenge and responses to determine if the proposed project will result in overbuild.

A list of valid challenges and the project areas affected will be posted to the Department of Community and Economic Development's website.

Providers that submit challenges that are found to be valid will have 18 months from the date the Authority awards grants for that funding round to submit documentation that the challenger has fulfilled its commitment made during its challenge.

If an application is denied funding due to a valid challenge, and the challenger does not fulfill its commitment to provide high-speed broadband service to customers in the affected project area, the Authority shall not consider challenges from the provider for the next two grant cycles unless it is determined that the failure to fulfill the commitment was due to unforeseeable and disastrous circumstances beyond the provider's control, and the provider has taken reasonable steps to fulfill the commitment in light of the circumstances.

Section VII – Application Evaluation

Unserved High-Speed Broadband Funding Program applications will be evaluated on the following criteria:

1. The size and scope of the unserved area to be served by the project.
2. The experience, technical ability and financial capability of the applicant to successfully deploy high-speed broadband services infrastructure and provide high-speed broadband service.
3. Length of time which the applicant has been providing high-speed broadband service.
4. The level of federal, state, and local government support needed to deploy high-speed broadband service infrastructure in an economically feasible manner.
5. The proportion of private capital pledged by the applicant to finance the project.
6. Whether the project has the scalability to meet the current and future needs of residents and businesses in the area to be served by the project.
7. Whether the project will serve an unserved or underserved area. Increased consideration will be given to projects in unserved areas and underserved areas with speeds below 10 megabits per second downstream and 1 megabits per second upstream and projects that exceed minimum speed thresholds established by these guidelines.
8. Whether the project will commence within 90 days of funding approval.
9. The economic conditions of the area to be served by the proposed infrastructure.
10. The plan to encourage adoption of high-speed broadband services beyond traditional marketing.
11. The project is sustainable beyond the exhaustion of grant funds.
12. The quality of low-cost alternatives.

Section VIII – Procedure for Accessing Funds

Upon approval of an application by the CFA, a grant agreement and commitment letter will be electronically issued to the applicant explaining the terms and conditions of the grant. The Grantee must provide the names, titles, and e-mail addresses for two authorized individuals to receive and electronically sign the grant agreement. The grant agreement must be electronically signed and returned to the CFA within 45 days of the date of the commitment letter or the offer may be withdrawn by the CFA.

Section IX – Program Inquiries

Program inquiries should be directed to:

PA Department of Community & Economic Development
Site Development Office
Unserved High-Speed Broadband Funding Program
Commonwealth Keystone Building
400 North Street, 4th Floor
Harrisburg, PA 17120-0225

Telephone: (717) 787-6245
Fax: (717) 772-3581
E-mail: ra-dcedsitedvpt@pa.gov

These guidelines can also be accessed online at dced.pa.gov

Appendix I – Supplemental Information for the Single Application for Assistance

In addition to completing the on-line DCED Single Application for Assistance, please include the following items when applying:

Exhibit 1: Project Description

Provide a clear and concise description of the project which discusses all of the following:

- a) description of the high-speed broadband service infrastructure including;
 - i. facilities
 - ii. equipment
 - iii. network capabilities
 - iv. minimum speed thresholds, including a low-cost alternative.
- b) the specific project area to be served by the high-speed broadband service infrastructure.
- c) the number of residential households and businesses to be served.
- d) list existing providers in the proposed project area and the speeds offered.
- e) whether the project will result in a substantiate positive economic development impact.
- f) the estimated start and end dates of construction.
- g) methods to encourage adoption of broadband service beyond traditional marketing.
- h) description of low-cost alternatives for high-speed broadband service.
- i) a list of the census blocks to be covered by the deployment of high-speed broadband service infrastructure.

NOTE: If a portion of a census block is served, describe the served areas and identify which portion constitutes the unserved area.

Exhibit 2: Qualifications of the Applicant

Provide detailed information regarding the experience of the applicant in their technical, managerial, and financial ability to build, operate and manage high-speed broadband service infrastructure networks serving households and businesses. Include the last three years of audited financial statements or tax returns from the applicant or parent company. Financial statements should include balance sheets, income statements, and notes to financials.

Exhibit 3: Pro Forma.

Provide a 5-year pro forma demonstrating that the high-speed broadband service to be provided will be sustainable after the grant award is exhausted.

Exhibit 4: FCC Form 477

Provide a copy of the most recently submitted FCC Form 477. Include FCC Registration Number if not provided on the FCC Form 477.

Exhibit 5: Cost Estimate

Provide a thorough and detailed statement as to the estimated cost of the project. The estimate must be prepared by an engineer or other qualified professional and should be accompanied where appropriate by copies of the signed bids/quotations, contractor estimates, or sales agreements that verify project cost estimates.

Exhibit 6: Matching Funds Commitment

Provide funding commitment letters from all other project funding sources (including equity commitments).

- Funding commitments or term sheets provided by lending institutions must include the term, rate, and collateral conditions, and must be signed and dated.
- Funding commitments of equity from the applicant or private third party must be signed and dated (indicating the amount of funds being committed) and be accompanied by documentation (such as audited financial statements) showing the ability to commit such funds.

Exhibit 7: Affidavit.

A notarized, sworn affidavit certifying that the proposed project will not result in overbuild.

Exhibit 8: Color-Coded Map (.shp, .shx, .dbf or .kmz)

Provide a detailed color-coded map detailing the location of the households and businesses to be served by the proposed broadband infrastructure. The map must include finite boundaries for each area. If the project area is non-contiguous, a separate layer must be placed within the electronic file for each area.

Exhibit 9: Permits.

A list of all Local, State and Federal planning approvals and permits from the appropriate agencies.

Exhibit 10: Planning Letter

A letter from the appropriate planning agency certifying that the proposed project complies with the comprehensive land use plans and zoning and subdivision codes.

Send the completed application and attachments to ra-dcedsvpt@pa.gov.

If you have any questions on completing the application, please call the Office of Business Financing at (717) 787-6245.